

1984 S.C. Op. Atty. Gen. 67 (S.C.A.G.), 1984 S.C. Op. Atty. Gen. No. 84-26, 1984 WL 159833

Office of the Attorney General

State of South Carolina

Opinion No. 84-26

March 8, 1984

*1 The Honorable Frank D. Lipsey
Municipal Judge
Town of Jonesville
Post Office Box 785
Jonesville, South Carolina 29353

Dear Judge Lipsey:

In a letter to this Office you questioned whether an individual, who was the affiant on an arrest warrant but who later asks that the warrant be withdrawn and no prosecution be undertaken, may be made to pay a monetary amount for withdrawing such warrant.

Generally, it is the rule in criminal cases that ‘. . . the recovery and allowance of costs rests entirely on statutory provisions—that no right to or liability for costs exists in the absence of statutory authorization.’ 20 C.J.S. Costs, Section 435, p. 677. I am unaware of any statutes or court rules which would provide for a payment in the circumstances outlined in your letter. Therefore, such a payment could not be demanded.

While it is indicated that an individual may not be charged an amount to withdraw a warrant, it can be further stated that, generally, there is no clear right for an affiant on an arrest warrant to have such warrant withdrawn. In [State v. Addison, 2 S.C. 356 at 363–364 \(1870\)](#), it was stated that:

‘The State is the party to the record charging an offense committed against ‘its peace and dignity’ . . . Save for the just and proper vindication of the law, no one has an interest in the conviction of the prisoner.’

See also; [Leeke v. Timmerman, 454 U.S. 83, 70 L.Ed.2d 65, 102 S.Ct. 69 \(1981\)](#).

If there is anything further, please advise.

Sincerely,

Charles H. Richardson
Assistant Attorney General

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